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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/765,431 | 01/22/2001 | William M. Johns | 111788.00101 | 9036 |
| 27557 | 7590 | 11/14/2008 | EXAMINER | |
| BLANK ROME LLP 600 NEW HAMPSHIRE AVENUE, N.W. WASHINGTON, DC 20037 | | | | ART UNIT |
| | | | | PAPER NUMBER |

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Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|--|---|---|
| Notification of Non-Compliant Appeal Brief (37 CFR 41.37) | Application No. | Applicant(s) |
| | 09/765,431 Examiner LAN-DAI Thi TRUONG | JOHNS ET AL. Art Unit 2452 |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 08 September 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))
6. The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. Other (including any explanation in support of the above items):

See Continuation Sheet.

/Kenny S Lin/
Primary Examiner, Art Unit 2452

Continuation of 10.⁴ Other (including any explanation in support of the above items):

In section of 'Summary of claimed subject matter':

In regard limitation (a): Figure 1 neither discloses ('application servers' nor 'user's workstation'). Applicant's citations from the specification and figure (i.e. Figure 1; page 10, lines 13 through page 11, line 7) does not provide descriptions relate to claim feature of "performance monitor process watching network activity to and from network application servers to entry servers which is connect the end user's workstations. Nowhere in the citations teach the use of 'activity audit trail'. In fact, the applicant's citations (Figure 1; page 10, lines 13 through page 11, line 7) teaches a network which includes communications between a BDNetManager and one or more sets of performance monitors and availability monitors are needed to effectively collect data on a timely basic and create a monitor log.

In regard limitation (c), applicant fails to provide a descriptive figure which enable to support the limitation.

In regard limitation (d), applicant fails to provide a descriptive figure which enable to support the limitation. Furthermore applicant's citations (i.e. page 10, lines 25 through page 11, line 7) does not support claim limitation of "...determining where problem regarding availability exist with the network connection from the entry server". Infact, The citations (page 10, lines 25 through page 11, line 7) only mentions about network monitors from which pseudo messages are sent and measured for response times.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAN-DAI Thi TRUONG whose telephone number is (571)272-7959. The examiner can normally be reached on Monday- Friday from 8:30am to 5:00 pm.